

REMARKS

Claims 1-14 and 16-51 are pending in the application. All pending claims have been rejected under 35 USC 103(a) as being unpatentable over Anderson (USP 6,442,600) in view of Smith et al. (USP 6,282,564).

The Anderson reference was filed on January 15, 1999 and was issued on August 27, 2002. Therefore, this reference is being cited as 102(e) art and is thus eligible to be overcome based upon an affidavit or declaration from an inventor pursuant to 37 CFR 1.131. See MPEP Section 715.

A Declaration pursuant to 37 CFR 1.131 was previously submitted stated that the invention was conceived and reduced to practice prior to the date(s) of the cited references. The Office Action asserted that the Declaration was insufficient for only allegedly including only general allegations and was therefore insufficient to overcome the rejection.

Without acquiescence in the conclusion of the Office Action, and to expedite allowance, Applicants hereby submit a revised 37 CFR 1.131 Declaration which include numerous documents and which specifically show that the claimed invention actually existed and worked for its intended purpose prior to the date of the cited Anderson reference. The Declaration explicitly describes facts which show that the subject matter of the application was conceived and reduced to practice prior to the date of the Anderson reference.

For at least this reason, it is respectfully submitted that Anderson cannot be used to anticipate or render obvious the claimed subject matter. Therefore, the combination of Anderson and Smith cannot be used to render the pending claims obvious. Moreover, it is respectfully noted that Applicants do not acquiesce in the basis of the rejection, e.g., because there is insufficient motivation to combine the cited references to arrive at the claimed subject matter and that even if a combination is made, the resulting combination does not include all elements of the claimed invention.

CONCLUSION

Based on the foregoing, all remaining claims are believed allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, please contact the undersigned at the number listed below.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. 50-4047 referencing billing number **7011472001**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. 50-4047, referencing billing number **7011472001**.

Respectfully submitted,



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By: _____
Peter C. Mei
Reg. No. 39,768

BINGHAM McCUTCHEN LLP
Three Embarcadero Center
San Francisco, California 94111-4067
Telephone: (650) 849-4870
Facsimile: (650) 849-4800